

REMARKS

Applicant respectfully requests reconsideration. Claims 32-53 were previously pending in this application, with claims 48-53 being withdrawn from consideration. Claim 32 is amended herein. Support for the amended claim is found throughout the specification as filed, including, for example, at page 5, lines 14-19 and page 10, lines 25-28. Claims 48-53 are hereby cancelled without prejudice. Applicant reserves the right to pursue the subject matter of the cancelled claims in a continuing application. As a result, Claims 32-47 remain pending for examination with claim 32 being an independent claim. No new matter has been added.

Rejection Under 35 U.S.C. 112

Claims 32-47 have been rejected under 35 U.S.C. 112, first paragraph, because, according to the Office, the specification does not reasonably provide enablement for animals other than vertebrates or for conditions that do not result in the actual expression of the antigen and induction of an antigen-specific immune response.

Without conceding to the correctness of the Office's rejection, and solely in the interest of expediting prosecution, Applicant has amended the claim to limit its scope to the treatment of mammalian subjects and to make clear that the gene encoded by the expression vector is expressed in the subject in an effective amount to induce an antigen specific immune response against the hepatitis B virus surface or core antigen. Applicant trusts that the amendment will overcome the rejection because, according to the Office, the specification provides enabling support for the method as previously claimed "wherein the plasmid expression vector comprises a gene encoding a hepatitis B virus surface or core antigen protein, and further wherein the vector comprises a promoter operably linked to the gene, such that the antigen is expressed in a vertebrate animal."

In view of the foregoing, withdrawal of the rejection is respectfully requested.

Double Patenting

Claims 32-47 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-14 of U.S. Patent No. 6,635,624.

Applicant provides herewith Terminal Disclaimers (FORM PTO/SB/26) for each of the three owners that disclaim any term of the patent that would extend beyond the term of U.S. Patent No. 6,635,624. Applicant trusts that the filing of these Terminal Disclaimers will overcome the rejection. Accordingly, withdrawal of the rejection is respectfully requested.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. 00277.70001US00

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Respectfully submitted,

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